ORIGINAL

In The Matter Of:

FIDELITY INFORMATION SERVICES, INC., v.

DEBTDOMAIN GLMS PTE LTD, ET AL.

DEFAULT STATEMENT - Vol. 1 September 13, 2010

MERRILL CORPORATION

LegaLink, Inc.

225 Varick Street 10th Floor New York, NY 10014 Phone: 212.557.7400 Fax: 212.692.9171

Case 1:09-cv-07589-LAK-KNF Document 112-10 Filed 09/17/10 Page 2 of 9

DEFAULT STATEMENT - 9/13/2010

Page 1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----x

FIDELITY INFORMATION SERVICES, INC.,

Plaintiff,

-against-

Civil Action No. 09-cv-07589 (LAK)

DEBTDOMAIN GLMS PTE LTD., DEBTDOMAIN (USA) INC., DAVID LEVY and SETH ROTHMAN,

Defendants.

September 13, 2010 10:00 a.m.

Default Statement at the offices of Chadbourne & Parke, LLP, 30 Rockefeller Plaza, New York, New York, before TAMMEY M. PASTOR, a Registered Professional Reporter, Certified LiveNote Reporter and Notary Public within and for the State of New York.

Merrill Corporation - New York www.merrillcorp.com/law

Case 1:09-cv-07589-LAK-KNF Document 112-10 Filed 09/17/10 Page 3 of 9

DEFAULT STATEMENT - 9/13/2010

1		
2	APPEARANCES:	
3	71 I I I I I I I I I I I I I I I I I I I	
4	CHADBOURNE & PARKE LLP	
5	Attorneys for Defendants	
6	30 Rockefeller Plaza	
7	New York, New York 10112	
8	New Tork, New Tork Torra	
9	BY: ROBERT A. SCHWINGER, ESQ.	
10	-and-	
11	ANDREA VOELKER, ESQ.	
12	,	
13		
14		
15		
16		
17		
18		
19		
20		
21		•
22		
23		
24		
25		

Case 1:09-cv-07589-LAK-KNF Document 112-10 Filed 09/17/10 Page 4 of 9

DEFAULT STATEMENT - 9/13/2010

] .
1	DEFAULT STATEMENT	
2	MR. SCHWINGER: Good morning. My	10:01:50
3	name is Robert Schwinger with the firm of	10:01:57
4	Chadbourne & Parke, attorneys for	10:02:00
5	Defendants in this action.	10:02:02
6	It is now a few minutes after ten	10:02:04
7	o'clock on Monday, September 13, 2010.	10:02:06
8	The Plaintiff has not shown up for his	10:02:12
9	Rule 30(b)(6) deposition this morning.	10:02:14
10	Nor has his counsel.	10:02:17
11	I would like to mark as Exhibit 1 a	10:02:19
12	Notice and Amended Notice of Deposition of	10:02:23
13	Fidelity Information Services pursuant to	10:02:27
14	Federal Rule of Civil Procedure 30(b)(6).	10:02:29
15	(Exhibit 1 marked for	10:02:29
16	identification, Amended Notice of	10:02:24
17	Deposition of Fidelity Information	10:02:25
18	Services pursuant to Federal Rule of Civil	10:02:27
19	Procedure 30(b)(6)dated 8/18/10, no	10:02:30
20	production numbers.)	10:01:50
21	MR. SCHWINGER: I would also like to	10:01:50
22	note the following on the record: At a	10:02:38
23	proceeding before Magistrate Judge	10:02:46
24	Kevin N. Fox held on July 28, 2010 on	10:02:50
25	page 26 of the transcript, at lines 4	10:02:53

Case 1:09-cv-07589-LAK-KNF Document 112-10 Filed 09/17/10 Page 5 of 9

DEFAULT STATEMENT - 9/13/2010

1	DEFAULT STATEMENT	
2	through 6 Defendants' counsel stated to	10:02:56
3	the court that they were requesting	10:03:00
4	separate depositions of both a 30(b)(6)	10:03:03
5	witness for the Plaintiff Fidelity and an	10:03:07
6	individual deposition of Ariel Elkayam.	10:03:11
7	On page 27 of the transcript at line	10:03:21
8	7 to 8 the court stated that there would	10:03:24
9	be an examination of Mr. Elkayam and a	10:03:27
10	30(b)(6) witness.	10:03:30
11	Notwithstanding the proceedings	10:03:40
12	which took place before the court, on	10:03:47
13	August 13, Plaintiffs' counsel Mark Moore	10:03:51
14	sent an email at 3:41 p.m. to Paul Tanck	10:03:56
15	at Chadbourne & Parke indicating that they	10:04:01
16	would, Plaintiffs would oppose setting two	10:04:07
17	full days for Mr. Elkayam to appear both	10:04:09
18	as the Rule 30(b)(6) representative of the	10:04:12
19	Plaintiffs and in his individual capacity.	10:04:15
20	By email sent later that same day at	10:04:17
21	4:11 p.m., Mr. Tanck replied to Mr. Moore	10:04:23
22	stating "The court has ordered two	10:04:29
23	depositions and we still intend to take	10:04:31
24	both."	10:04:33
25	The following Monday, August 16th,	10:04:38
1		

Case 1:09-cv-07589-LAK-KNF Document 112-10 Filed 09/17/10 Page 6 of 9

DEFAULT STATEMENT - 9/13/2010

	1	DEFAULT STATEMENT	
	2	by email sent at 12:26 p.m., Mr. Moore	10:04:41
	3	replied to Mr. Tanck that he nevertheless	10:04:44
	4	would not be providing two dates for the	10:04:48
	5	depositions of Mr. Elkayam for the reasons	10:04:52
	6	set forth in his August 13th email.	10:04:55
	7	Thereafter Defendants served a	10:04:59
	8	Notice of Deposition that was marked as	10:05:07
	9	Exhibit 1 on August 18, 2010. And also	10:05:12
	10	served an individual Notice of Deposition	10:05:18
	11	for Mr. Elkayam.	10:05:19
	12	On Wednesday, September 8th, 2010	10:05:26
	13	Mr. Tanck asked Mr. Moore to confirm that	10:05:28
	14	Mr. Elkayam would be appearing for the	10:05:30
	15	30(b)(6) deposition of the Plaintiff	10:05:46
	16	today, Monday September 13th.	10:05:50
	17	By email sent Thursday, September 9,	10:05:54
	18	2010 at 8:46 p.m. Mr. Moore replied to Mr.	10:05:57
	19	Tanck stating that Defendants are not	10:06:04
	20	entitled to two new depositions of Mr.	10:06:05
	21	Elkayam and indicating that no one would	10:06:07
	22	be appearing on Monday, September 13th for	10:06:10
	23	deposition.	10:06:13
	24	I also note that at this time	10:06:15
	25	Plaintiffs have not made any motion with	10:06:20
1			

Case 1:09-cv-07589-LAK-KNF Document 112-10 Filed 09/17/10 Page 7 of 9

DEFAULT STATEMENT - 9/13/2010

Page 6

1.	DEFAULT STATEMENT	
2	the court for Protective Order with regard	10:06:22
3	to the depositions of Mr. Elkayam, either	10:06:25
4	as a Rule 30(b)(6) deposition	10:06:31
5	representative of the Plaintiff or in his	10:06:33
6	individual capacity. Thank you.	10:06:36
7		
8		
9	(Time Noted 10:06 a.m.)	
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20 .		
21		
22		
23		
24		
25		

```
1
                       DEFAULT STATEMENT
 2
                        CERTIFICATE
 3
      STATE OF NEW YORK
 5
                              : ss.
      COUNTY OF NEW YORK
 8
                  I, TAMMEY M. PASTOR, a Registered
 9
      Professional Reporter, Certified LiveNote
      Reporter and Notary Public within and for the
10
11
      State of New York, do hereby certify that the
12
      foregoing proceedings were taken before me on
13
      September 13, 2010;
                  That the within transcript is a true
15
      record of said proceedings;
16
                  That I am not connected by blood or
17
      marriage with any of the parties herein nor
18
      interested directly or indirectly in the matter
19
      in controversy, nor am I in the employ of the
20
      counsel.
21
                  IN WITNESS WHEREOF, I have hereunto
      set my hand this 15th day of September, 2010.
22
23
24
25
      TAMMEY M. PASTOR, RPR, CLR
```

Case 1:09-cv-07589-LAK-KNF Document 112-10 Filed 09/17/10 Page 9 of 9

DEFAULT STATEMENT - 9/13/2010

		Page 8
1	DEFAULT STATEMENT	
2		
3	(Exhibit 1 marked for	3
4	identification, Amended Notice of	
5	Deposition of Fidelity Information	
6	Services pursuant to Federal Rule of	
7	Civil Procedure 30(b)(6)dated	
8	8/18/10, no production numbers.)	
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		